

REMARKS

In the Office Action, the Examiner objected to the drawings under 37 C.F.R. § 1.84(p)(5). The Specification was objected to for certain informalities, under 35 U.S.C. § 112, first paragraph and 37 C.F.R. § 1.71(a)-(c) regarding claims 8-12, and also for various reasons with respect to claims 17, 24, 34, 37-48 and 51. Claims 1-23 and 28-33 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Claims 34-51 were rejected under 35 U.S.C. § 101 for failing to recite statutory subject matter. Claims 1-7, 13, 24, 25, 33 and 49-51 were rejected under 35 U.S.C. § 102(b), as being anticipated by Sibley '552. Claims 14-51 were rejected under § 102(b), as being anticipated by Wiseman '446. Finally, Claims 8-12 and 17 were rejected under 35 U.S.C. § 103(a), as being unpatentable over Sibley '552. Applicant respectfully traverses the Examiner's objections and rejections.

Applicant's invention relates to a system and method for linking a commodity futures or options contract with a principle market maker program. The system includes an electronic brokerage and trading network having at least one computer coupled to receive and transmit bids and offers for international commodity trading, a display terminal and an input. More importantly, the system includes a principal market maker computer coupled to the electronic brokerage and trading network wherein the principal market maker computer is operative to receive and transmit the bids and offers and execute international commodity trades by maintaining a market for such commodity. The method comprises the steps of receiving and transmitting bids and offers for publicly traded commodities, storing the received bids and offers in a memory, identifying and executing the matching bids and offers, identifying unmatched bids and offers, and providing a complementary trade to maintain a market for such commodities.

One of the unique aspects of Applicant's invention, therefore, is the principal market maker computer, which automatically operates as a "specialist" to maintain a market in traded commodities. None of the references cited by the Examiner either teach or suggest this unique aspect of Applicant's invention.

I. Objections to the Drawings

In the Office Action, the Examiner objected to the drawings for various reasons. Specifically, the Examiner requested the addition of the word "computer" to Figures 1 and 2, and the deletion of certain unused reference numerals in Figures 1, 3 and 4. Applicant has made the requested changes to the drawings in red ink on the informal drawings attached hereto as Exhibit A.

Applicant also notes the objections of the Official Draftsperson in the Notice of Draftsperson's Patent Drawing Review. Applicant will submit formal drawings that both incorporate the changes reflected in Exhibit A and overcome the objections of the Official Draftsperson upon receipt of a Notice of Allowance.

II. Objections to the Specification

A. The Examiner objected to the specification for various informalities including missing reference number(s), misspelled word(s), confusing sentence structure(s), inconsistently referenced element(s) and excessive sentence word(s). Through the above amendments to the specification, Applicant has corrected those specific informalities set forth in the Office Action. Applicant has also reviewed to the specification to identify and correct further informalities.

Should the Examiner uncover any additional items that require correction, the Examiner is respectfully requested to bring such items to Applicant's attention.

B. The examiner also objected to the specification under 37 C.F.R. § 1.71 because the disclosure is allegedly insufficient with respect to claims 8-12. These claims recite as elements certain computerized trading systems generally known in the art. In this country, their meanings are well-known and satisfactorily defined in the literature. To the extent Applicant understands the objection, the Examiner requires that these elements be identified in the specification by the name used in the trade. Applicant has therefore made such modifications to the specification in the above amendments.

C. Finally, the Examiner objected to the specification with respect to claims 17, 24, 34, 37-48 and 51 for various reasons. In that all of these rejections relate to specific claims, amendments have been made above to these claims in order to more particularly point out and distinctly define Applicant's claimed invention and overcome the Examiner's objections.

III. Claim Rejections under 35 U.S.C. § 112

In the Office Action, the Examiner rejected claims 1-23 and 28-33 under § 112, second paragraph, as being indefinite. The Examiner pointed out specific instances where claims 1, 3, 4-7, 8-12, 13, 14, 15, 16, 22, 23, 25, 28-32 and 33 were believed to be indefinite. Through the above amendments, Applicant has amended certain of these specific claims in order to more particularly point out and distinctly define Applicant's claimed invention. To the extent Applicant may have missed any other items in claims 1-23 or 28-33 that require correction, the Examiner is respectfully invited to bring these items to Applicant's attention.

Otherwise, with respect to claims 3-7, the means referred to in these claims is illustrated in Figure 1 as elements 28, 30, 32, 34 and 36, and are also referred to in the detailed description on page 8, lines 11-15. The “wherein” clause referred to in claim 13 describes functional features of the elements already recited in claim 1, and is believed to be permissible. In claims 14, 22 and 23, the bi-directional communications link is believed to be a positively recited structural element itself not requiring any additional feature. The structures being linked in claims 15 and 16 are the PMM futures and options computers 33, 35 and elements 38 and 40, and 32, 34 and 36, respectively, as shown in Figure 2.

IV. Claim Rejections under 35 U.S.C. § 101

In the Office Action, the Examiner rejected claims 34-51 under § 101 because they fail to recite statutory subject matter. The Examiner asserts that these claims do not show a practical application within the technological arts in that the process steps do not perform independent physical acts. According to the Examiner, claims 34-51 are firmly rooted in the abstract idea of physically trading currencies. In support of these rejections, the Examiner ultimately concludes that the claimed steps “are performed manually.” Applicant respectfully suggests that the Examiner has misunderstood Applicant’s claimed invention.

Applicant’s invention, as described above, is clearly directed to automatically maintaining a market in trading commodities such as currency futures and options through the use of a principal market maker computer. In several places throughout the specification, Applicant has pointed out the utility of the claimed invention. (E.g., p. 4, lines 15-34; p. 6, lines 21-29; and pp. 13-15, lines 30-3.) Moreover, in the above amendments, Applicant has attempted to more particularly point and distinctly define Applicant’s claimed invention to identify how the

principal market maker computer automatically maintains a market for a given commodity. In view of the above amendments and remarks, therefore, Applicant respectfully asserts that the rejections under § 101 should be withdrawn.

V. Claim Rejections under 35 U.S.C. § 102(b)

The Examiner rejected claims 1-7, 13, 24, 25, 33 and 49-51 under § 102(b) as anticipated by Sibley '552. In the Office Action, the Examiner asserts that Sibley '552 discloses Applicant's claimed invention by including, among other things, a principal market maker computer. According to the Examiner, the "local computerized trade exchanges 10" described in Sibley '552 and shown in Figure 2 therein discloses a principal market maker computer. Applicant respectfully disagrees.

Sibley '552 is directed merely to a computerized trading system that allows the transmission of data representing bids and offers. The local computerized trade exchanges 10 disclosed in Sibley '552 is clearly used to describe actual physical commodity exchanges such as "the Chicago Commodity Exchange, the New York Commodity Exchange, the Paris Commodity Exchange, the London Commodity Exchange, the Amsterdam Commodity Exchange, and the Kansas City Commodity Exchange." (Col. 4, lns. 49-53.) Nowhere is the local computerized trade exchanges 10 in Sibley '552 used to refer to any computer or other mechanism acting as a market maker or specialist for trading any commodity. The reason for this is simple. The concept of a market maker or specialist, whether human or computerized, is completely foreign to the trading of commodities.

At least one novel aspect of Applicant's claimed invention is the adoption and implementation of a market maker computer to be used in the trading of commodities.

Applicant's claimed invention, as amended, provides a computer to automatically execute commodity trades in order to maintain a bid and offer market for a given commodity. Neither Sibley '552 nor any other cited reference discloses this unique aspect of Applicant's claimed invention. Nevertheless, to more distinctly define and particularly point out this unique aspect of Applicant's claimed invention, Applicant has made the above amendments to claims 1-7, 13, 24, 25, 33 and 49-51.

The Examiner also rejected claims 14-51 under § 102(b) as anticipated by Wiseman '446. In the Office Action, the Examiner "interprets" an un referenced primary trader and secondary trader as maintaining a currency future and options bid and offer market "by nature of the trader's [] status." Applicant again disagrees.

Wiseman '446 is directed to "a system for processing transactions between commodity traders." (Col. 2, lns. 11-12.) The system disclosed in Wiseman '446 includes "a network of trading stations, each of which comprises an input slate and a display screen." (Col. 2, lns. 25-27.) Moreover, in Wiseman '446 "trades always proceed within the structured framework of the present invention." (Col. 2, lns 57-59.) As a result, Wiseman '446 cannot possibly anticipate Applicant's claimed invention for at least the following reasons: First, the Examiner's "interpretation" is not supported in any way by the disclosure contained in Wiseman '446. Second, no such support can be found because again the use of a market maker or specialist, whether human or otherwise, is completely foreign to commodities trading. Thus, the nature of any commodity trader's status precludes acting as a market maker or specialist to maintain a futures or options bid and offer market for a given commodity. Nevertheless, in order to more distinctly define and particularly point out Applicant's claimed invention, Applicant has made the above amendments to claims 14-51.

In view of the above amendments and remarks, Applicant respectfully asserts that claims 1-7 and 13-51 are not anticipated by either Sibley '552 or Wiseman '446.

VI. Claim Rejections under 35 U.S.C. § 103(a)

Finally, the Examiner rejected claims 8-12 under § 103(a) as being unpatentable over Sibley '552. According to the Examiner, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Sibley '552 in order to achieve the inventions claimed in claims 8-12. Again, Applicant respectfully disagrees.

Claims 8-12 all depend from independent claim 1. For the reasons set forth above, Sibley '552 is missing at least one important element recited in claim 1. As a result, and assuming for the moment that the Examiner were correct (which Applicant does not admit), one of ordinary skill in the art would still not be able to achieve Applicant's claimed invention with the addition of the electronic trading systems mentioned in the Office Action. Accordingly, claims 8-12 of Applicant's claimed invention are not rendered obvious over Sibley '552.

VII. Conclusion

Applicant notes the prior art made of record but not relied on by the Examiner. Applicant agrees that none of these references disclose or suggest Applicant's claimed invention. Kalmus et al. discloses a market maker computer, but only in the context of securities trading.

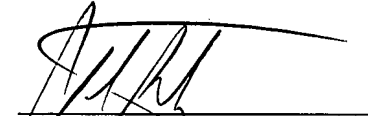
Applicant also notes that the Examiner crossed out one duplicative entry of a prior art reference submitted by Applicant. It is understood by Applicant that reference no. WO96/21903 was nevertheless considered by the Examiner as indicated in the second Form PTO-1449 attached to the Office Action.

In view of the above amendments and remarks, Applicant submits that this case is in condition for allowance. If the Examiner feels that a telephone interview would be helpful in resolving any remaining issues, the Examiner is respectfully invited to contact Applicant's undersigned attorney.

Respectfully submitted,

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